IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 200 OF 2005

Surendra Yadav & others. ... Appellants.
Versus.
The Chief Executive Officer
and others. ... Respondents.

Shri S.N.Vaishnawa with Shri Y.K.Tiwari and
B.H.Bhalwal for the Appellants.

Shri Utangale for the Respondent No.1.

Shri Naruk for Respondent No.3.

CORAM : ABHAY S. OKA, J.

DATED : 4th March, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties.

2. By order impugned the learned trial Judge has declined to grant ad-interim relief in view of the undertaking given by the Respondent No.3 which is referred to in the impugned order. Today an affidavit is filed by Shri G.C.Shah a partner of Respondent no.3 in which he has given the following undertaking:

> "Without prejudice to the rights and contentions of Respondent No.3 in the matter, I undertake that Respondent No.3 shall not sell and/or induct any person in the said flats/shops being constructed in the slum building on the disputed portion of the property bearing CTS No.268(part)

pending the notice of motion No.478 of 2005 for a period of 30 days only from the date of order passed by this Hon'ble Court."

The said undertaking is accepted.

2. The learned Counsel appearing for the Appellants submitted that in view of the undertaking, the Notice of Motion pending in the trial Court be ordered to be heard expeditiously without considering the merits of this appeal. Hence the appeal is disposed of by the following order:

(i) The undertaking of the Respondent No.3 filed today is accepted.

(ii) The Respondents will file their reply, if any, to the Notice of Motion on or before 16th March 2005. Rejoinder, if any, to be filed within one week thereafter.

(iii) The learned trial Judge will dispose of the pending Notice of Motion as expeditiously as possible and preferably on or before 8th April 2005.

(iv) As the undertaking given by the Respondent No.3 is only for a period of 30 days, the

Respondent No.3 will not sell and/or induct any third person in the flats/shops referred to in paragraph 1 of the said undertaking till disposal of the Notice of Motion.

(v) The Notice of Motion will be decided on its own merits without being influenced by the earlier ad-interim order and the order passed by this Court in this Appeal from Order.

(vi) The Appeal is disposed of in above terms with no order as to costs.

(vi) The parties and the concerned Court to act on authenticated copy of this order.

Judge.